GOVERNMENT OF MADRAS.

Old Scott. II-28, New Scott. II-16—71,006—28-4-55.

N

Public works (1955) Department.

~~Endorsement~~
~~D.O.~~
~~Memorandum~~
~~Lodged~~

Letter No. 2274 A/55-15

Dated 16 9 1955.

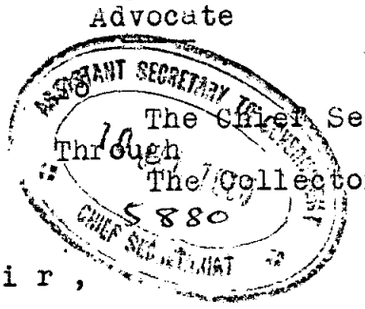
Passed
K.V.R.
Superintendent
BY

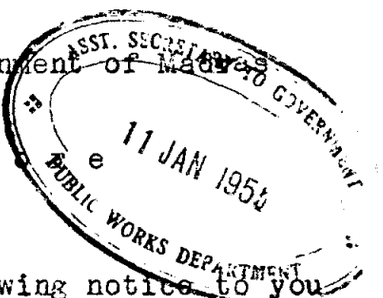
FURTHER PAPERS.

Department.	Number.	Series.	Date.

S.N.Acharya, B.A., LL.B.,
Advocate

Coondapoor,
1-1-1955.





The Chief Secretary to the Government of Madras
Through
The Collector of South Kanara,
Mangalore

Sir,

I have the honour to convey the following notice to you under instructions imparted to me by client Sri Beppade Nagaiya Hegde nephew of Herianna Shetty, residing in Madamakki Village of Coondapoor Taluk:

2 My client has cause to complain that he has been ~~the~~ a victim of the vagaries of the Highways Department, Mangalore Division.

3 The facts of my client's case against the Highways Department are briefly the following:

A 1 Trees numbering about 180 and lining the highway between Koteshwar and Someshwar - that is mile 1 to mile 6-4, came to be auctioned away in June 1952. The notification of sale caused to be published by the Divisional Engineer, Highways Mangalore was proof enough that the trees were the property of the Highways Department. Without in the least suspecting that the right of the department to the trees was shady or questionable my client happened to offer the highest bid at the auction-sale - and get the trees knocked down in his favour. Receipt Nos. 88194/94 and 88195/95 passed by the Section-Officer, Brahmavar, evidence the payment of the sale price of Rs 188-4-6 which my client has made in that behalf.

B 4 My client was subsequently given to understand that the trees could be felled and transported only under a permit to be obtained from the Dt. Forest Officer and accordingly he applied for one on 19-7-1952. That application has evidently gone into cold storage at least so my client presumes.

C 5. In the honest belief that his own right to the trees purchased by him was perfect so far as it went, my client commenced felling operations in July 1952, but came to grief at the hands of the Forest Department. Though my client had felled only those trees which the Maistry of the Section-Office Brahmavar had marked out for him, the Forester, Sitanady, took the law into his own hands and went the length of seizing most of the logs - sawn or unsawn - and reporting the matter to the Range Officer, Karkala. The logs so seized and taken over by the Forester were subsequently sold away at an auction-sale held under the auspices of the Forest Department. Apart from the loss which the action of the Forest Department occasioned to my client, he was made to face criminal prosecution in O.R.23/52-53.

D 6 Trusting that the Highways Department could still intervene and safeguard its own interests as well as his, my client placed his grievances before the Asst. Engineer Highways, Udipi by means of an application dated 22.7.1952. A similar petition was addressed under even date to the Supervisor, Highways. Both the petitions were sent by registered post. Two years and a half have rolled by since without my client being given to know if and how the petitions have been dealt with.

E 7 While everything was thus in a state partly of confusion and partly of suspense, thieves got busy and stole away a few

F

of the logs. My client immediately informed the Maistry of the Section Office, Brahmavar about the state of affairs. Thereupon the Supervisor conveyed his own advice to my client through the Maistry which was to the effect that my client could pile up the logs in one place and take care of them until such time as my client was favoured with the permit he had applied for long before then. My client made an attempt to move the logs from here and there to one place - but was hindered and obstructed in the attempt by the Forest Guard, Balmane beat. The guard had his own say and way in the matter with the result that the logs in transit were seized & by him and taken away from my custody ~~and control.~~ My client wishes me to add that he was made to pay compounding-fee of Rs 10/- in that connection no one knows for what fault of his.

4 My client made a final appeal to the Divisional Engineer, Highways (as per petition dated 2.9.1952) to come to his rescue and help him procure the logs back from the unlawful custody of the Forest Department. The petition went the way of petitions made herebefore - and in the ordinary course of things the logs were auctioned away by the Forest Department.

5 Sir, I believe that it is unnecessary for me to emphasise the fact that my client has not had the use or the benefit of the property sold to him by the Highways Department but that on the contrary, he has been put to a great loss and hardship, not to speak of mental agony. My client believed, in all honesty, that the bargain he had had with the Highways Department would bring him a profit of round about Rs 500/-. He was disillusioned, when at the very beginning, the Forest Department entered on the scene and exercised its rights and privileges. The Highways Department has all along refused to assert even its existence much less its right to or authority over the trees in question. My client cannot help thinking that the Highways Department has throughout been acting in a manner which is both callous and irresponsible and has let him down at every stage unmindful even of its moral obligation to support or stand by him.

10 It is patent that in the circumstances above stated, my client has had to suffer material loss and mental agony all on account of the vagaries of the Highways Department. He feels justified in thinking that the Department has duped him both directly and indirectly. The purchase-price of Rs 188-4-6 deposited by him is wrongfully retained by the department: he is not compensated for the loss of profit which he has sustained: he has, besides, been subjected to much mental agony. The Department is behaving just as if nothing of the kind has happened, wherefore my client feels constrained to resort to such remedies as are open to him in law.

11 I do, hence, call upon the State of Madras, through you to arrange payment to my client within the span of time prescribed under S.80 of the Civil Procedure Code - of

12 1. The sum of Rs 188-4-6 - had and received by the Highways Department under cover of the auction sale which has since turned out to be a fraudulent one.

2. A sum of Rs 500/- by way of compensatory damages for the loss of profit engendered by the transaction aforementioned.

3. A sum of Rs 25/- being the cost of this notice.

If, for any reason the Government does not find its way to act in compliance with this notice, then, allow me to tell you that my client will take recourse to such legal action

against the State as he will be advised to.

The Office Copy of this notice is retained by me.

I am,
S i r ,
Faithfully yours,

Copy sent to:

The Divisional Engineer
Highways, [illegible], S.R.

PWD(A-3)

25/1/11 Ewn. 2274-A/55-1 dt. 12.1.55

Referred to the CE (H) for remarks in consultation with the CC-F.

12.1.55

11.1.55 Kew 11.1.55

To the CE (H)
Copy to CCF

CENTRAL DESPATCH BRANCH
Post.
Despatched by Regd. Post. Messenger.
Date 18/1 1955. Despatcher's Initials.

Note:- Agri. may see after visit.

13.1.55 Agri (ai)

Receipt from CE(H) on 20/1/55

11.1.55 Kew 11.1.55

12- 6188

FIRST ASSISTANT SECRETARY TO GOVERNMENT 20 JAN 1955 AGRICULTURE DEPARTMENT

4889

P.W.D. no. 2274 A/55-2

19.1.55.

Agri (C IV) dept.

AS.

May be returned to P.W.D.

for Rc no 4889 C IV/55-1 dt 27.1.55

ASST. SECRETARY TO GOVERNMENT 27 JAN 1955

25/1/55

4

PWD(A3)

Please see the notes on p. 3 ante - work the Estdt. on p. 3 ante the CE(M)'s enquiry report may be awaited till 15-2-55

29.1.55

28/1/55

28.1.55

87 L

3.5 P.M.
Line engaged
28.2.05

5

T.M. No 2274 A/ST-3 dt 28.2.05

From the A.S (P.W.D)

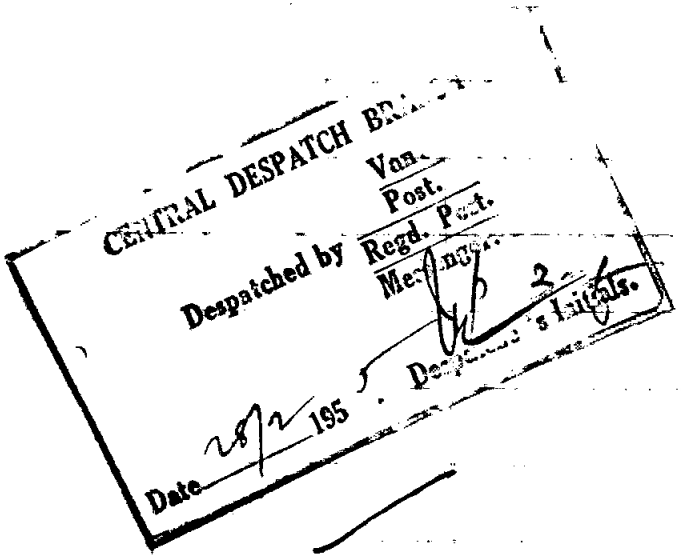
To the CE (H)

Sub: Trees - Trees on the Highway between Kolesthwar and Someshwar - Auctioned by Highways Dept - suit notice for compensation by the Sri Bappade Nagaraja Hegde -

Ref: Govt. Endh No 2274 A/ST-1 dt 12.1.05

Please expedite the submissi of your report or say when it may be expected.

28/2/05 Kon 28.2.05



P.C. Logs

13693

HIGHWAYS DEPARTMENT.

7

From
Sri K.K.Nambiar,B.E.,M.I.E.,(Ind),
F.Inst.H.E.,(Eng)M.I.Mun.E.,(Eng),
M. Am. S o c. C. E.,
Chief Engineer (Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department,
Fort St. George,
MADRAS-9.

Letter No.2608 D1/55-5 Dated 4th March, 1955.

Sir,

Sub: Trees - Trees on the Highway between Koteshwar and Someshwar - Auctioned by Highways Department - Suit Notice for compensation by ~~the~~ Sri B. Nagaiya Hegdi.

Ref: Government P.W.D. Telephonic Message No.2274-A/55-3. --- dt 2 3 55

The matter is under consideration. The remarks of the Chief Conservator of Forests and the Superintending Engineer's report are awaited. A report will be sent at an early date.

for Chief Engineer (Highways).

kt:4.3.

~~P.W.D.(A3)~~

~~A.R. (W) 15-3-55~~

CENTRAL DESPATCH BRANCH

Van.
Post.
Despatched by Regd. Post.
Messenger.

Date 9/7/195 5. Despatcher's Initials.

Letter no. 2274 A/55-5 dt 16.3.55

To

Sri S.N. Acharya, B.A. L.L.B.,
Advocate, Coondapur.
S. Kanara Dt.

Sir,

Sub: Avenue trees on Highway between Koteshwar and Someshwar - Auctioned by Highways Deptt. in 1951-52 - Suit notice for payment of compensation to Sri B. nagaraja Hegde for alleged loss sustained by him.

Ref: your letter dt 1.1.55

I am directed to state that a report in the matter has been called for from the C.E.(H) of the State and it is still awaited. The final reply of the Govt will be sent as soon as the CE's report is received and examined.

9/3/55 for S.F.

9-3-55

12/8/55

Note: Please see the letter from the CE (H) on p. 7 of. His report may be awaited till 15.3.55.

Meanwhile, an interim reply as in the draft above

M (ST) p 2 of

pp 1-3 of

p 7 of

copy to

The CE (H)

C... Despatch Br...
V...
Post
Regd. Post
Messenger.

Date 9/3/55 Despatcher's Initials.

may be sent to the Advocate w.r.t. his letter on fp. 1-3 of. so as to prevent the party from rushing in to the court.

Law may see before issue.

14/3/55.

Kow
9.3.55

12/3/55

Law Dept

Seen in Law

9.3.55

14-3-55

PWD

PWD.

P.W.D (A-3)

draft
The letter overleaf may now issue.

15/3/55

Kow
15.3.55

16.3.55

2

21287

PWD no. 2274 A/55-4
14.3.55

ASSISTANT SECRETARY
14 MAR 1955
3726
LAW DEPARTMENT, MADRAS

12.45

Law no 3726/55-1
14.3.55

ASST. SECRETARY TO GOVERNMENT
16 MAR 1955
PUBLIC

11 P.W.D(A3)

Special.

Memo No 2274 A/55-6 dt 4.4.55

Sub: Trees - Trees on the Highway between Koteshwar and Somesh Ar sanctioned by Highways Deptt - Suit notice for compensation by Sri B. Nagaiya Hegde.

Ref: From the CE(H), Ref No 2608 D1/55-5 dt 4.3.55.

The attention of the C.E(H) is invited to the reference cited. He is requested to expedite the submission of his report or state when it may be expected

P 7 of

CENTRAL DESPATCH BRANCH
Van.
Post.
Despatched by Regd. Post.
Messenger.
Date 5/4/1955. Despatche's Initials.

To The CE(H)

3/4/55
3/4/55
4.4.55

ASST. SECRETARY TO GOVERNMENT
8 - APR 1955
PUBLIC WORKS DEPARTMENT

13

HIGHWAYS DEPARTMENT.

From
Sri K.K. Iambiar, B.E.,
A.M.I.E.(Ind), F.Inst.M.L.(Eng),
A.M.Inst.E.(Eng.), M.Am.Soc.C.E.,
Chief Engineer (Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department,
Madras.

Letter No.26089/55-11 dated 7-4-55.

Sir, 29145

Sub: Trees - trees on the Highways - between Kotaiyur to Someshwar - sanctioned by Highways Department - suit notice for compensation by Sri B. Narayana Reddy.

Ref: B.T.D. Memo No.2274-A/55-6 dated 4-4-55.

The remarks of the Chief Conservator of Forests and certain further particulars from the Superintending Engineer are awaited. A report will be sent at an early date on receipt of the above particulars.

for CHIEF ENGINEER (HIGHWAYS.)

Nks74

PWD(A3)

A.R.-Cell 20.4.55

9/4/55

11.4.55

P.WD(A-3)

Speed

T. M. No 2274 A/55-7 dt 26.4.55

From the A-S(P.W.D)

To the C.E (H)

Sub: Trees - Trees on Highway between Kotheshwar and Someshwar - auctioned by Highways Deptt — Suit notice for compensation by Sri B. nagaraja Hegde.

Ref: your letter No 2608 D1/55-11 dt 7.4.55.

Please expedite the submission of your report. My 26.4.55

P.C logo.

26/4/55

26/4/55

T.M. received 28/4.

CENTRAL DESPATCH BRANCH

Van / Post.

Despatched by Regd. Post

Date 27/4/1955. Despatcher's Initials.

15

HIGHWAYS DEPARTMENT

From
Sri K. K. Nambiar, [illegible]
M.I.E.(Ind), F.Inst.H.E.(Eng),
M.I.Mun.E.(Eng), M.Am.Soc.C.E.
Chief Engineer (Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department,
Madras-9.

LETTER No. 2608 D1/55-14 dated 27th April 1955

35039

Sir,

SUB: TREES - Trees on the Highway between Koteshwar and Someshwar - Auctioned by Highways Department Suit notice for compensation by Sri Nagiah Hegde

REF: Government Public Works Department Endorsement No. 2274 A/55-1 dated 12.1.1955

:::

The trees standing on the deadmen in the earthwork done in Mile 0/1 to 10/0 of Someshwar Koteshwar road were auctioned and the highest bid was for Rs.90/- by one Sri Srinivasa Naik. On a petition from Sri Nagiah Hegde a resale was conducted. There were no bidders and the sale was confirmed to Sri Nagiah Hegde for the amount deposited by him, viz., Rs.125/- and sales tax thereof was collected. A further sale of 68 trees in Mile 0/1 to 1/3 of the same road was also conducted and the sale was knocked down by Sri Nagiah Hegde for Rs.61/- plus sales tax. The total number of trees sold was 180. It was later found that in the list of trees sold by this department 8 trees belonging to the Forest Department were included by mistake. In felling the trees auctioned it is reported that Sri B.Nagiah Hegde actually removed 9 more trees belonging to the Forest Department in addition to the 8 trees of the Forest Department sold by mistake by this department. The case filed by the Forest Department against the petitioner was later withdrawn. The petitioner was not obstructed from removing the trees other than those belonging to the Forest Department and this department cannot be held responsible for any alleged loss therefor. The proportionate amount for the 8 trees of Forest Department included by this department by mistake and auctioned works out to Rs.7-3-0 ($\frac{61 \times 8}{68}$) plus sales tax.

This amount is to be refunded to the petitioner.

The Superintending Engineer is ascertaining whether this amount is refunded by this department.

The remarks of the Chief Conservator of Forests called for have not been received.

for CHIEF ENGINEER (HIGHWAYS).

nsk/270455.

PWD(A3)

1

special.

Memo no 2274A/55-8 dt 7.5.55

Sub: Trees - Trees on the Highway between Kateshwar and Someshwar - Sanctioned by Highways Deptt - Suit notice for compensation by Sri Nagesh Hegde.

Ref: From the CE(H), Ref. no 2608 D1/55-14 dt 27.4.55

The attention of the CE(H) is invited to the reference cited. He is requested to submit his further report, in consultation with the

p 15 c

Chief Conservator of Forests,

very urgently.

7/5/55

7.5.55

To

The CE (HQ)

Despatched

7/5

note: Please see the CE's report at p. 15 cf. w.r.t. X therein, he may be reminded as in the draft memo above.

7/5/55

7.5.55

7.5.55

P.W.D (A3)

19

Special.

T.M. issued at 3-10 P.M.

hm 18/5

CENTRAL DESPATCH BRANCH
Ven.
Part.
17.18
18-5-55 Sender's Initials

T.M. No 2274 A/55-9 dt 18.5.55

From the A.S. (P.W.D)

To the C.E. (H)

Sub: Trees - Trees on the Highway between Kokeshwar and Someshwar auctioned by Highways Dept - Suit notice for compensation by Sri Nagaiah Hegde.

Ref - Govt Memo No 2274 A/55-8 dt 7.5.55

Please expedite the furnishing submission of your report in the ref 1st matter

M 16.5.55

Ken 18.5.55

P.C. to go

A

21

40075. HIGHWAYS DEPARTMENT.

From
Sri K.K.Nambiar,B.E.,M.I.E.(Ind.)
F.Inst.H.E.(Eng.)M.I.Mun.E.(Eng.)
M.Am.Soc.C.E.,
Chief Engineer (Highways)
Chepauk, Madras--5.

To
The Secretary to Government,
Public Works Department,
Fort St.George, Madras.

...L SECRETARY TO GOVT.
13 MAY 1955
PUBLIC WORKS DEPARTMENT

Letter No.2608-D1/55-16 dated 14.5.55.

Sir,

Sub:-Trees - Trees of the Highways Department between Koteswarnto Someshwar au ctioned by Highways Department - Suit Notice for compensation by Sri B. Narayana Hedge.

Final Ref:-Govt.Memo No.2276-A/55-8 dated 7-5-1955.

....

The remarks of the Chief Conservator of Forest are awaited. A report will be sent at an early date on receipt of the above particulars.

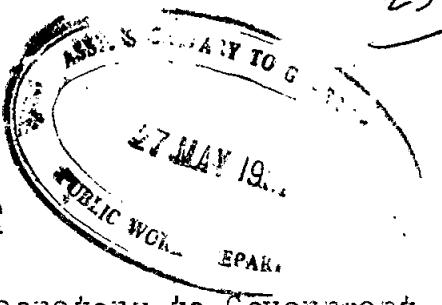
PWD (A3)
ARLiu 27.5.55
20/5/55
22.5.55
20555

tm/14.5.

for CHIEF ENGINEER (HIGHWAYS)

23

42887



HIGHWAYS DEPARTMENT

From
Sri K. K. Nambiar, B.E.,
M.I.E.(Ind), F.Inst.H.E.(Eng),
M.I.Mun.E.(Eng), M.Am.Soc.C.E.
Chief Engineer (Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department,
Fort St. George,
Madras.9.

LETTER No. 2608-D1/55-18 DATED 25-5-55.

***

Sir,

SUB: TREES - Trees on the Highways between Koteshwar and Someshwar - Auctioned by Highways Department - Suit notice for compensation Sri Nagiah Hegde -

REF: Government P.W.D. T.M. dated 18-5-55.

****

The report called for from the Chief Conservator of Forests has not yet been received. He was last reminded on 14-5-55. A reply will be sent on receipt of his report.

for Chief Engineer(Highways).

PWD (A3)

A.R. Cell 1.6.55

28.5.55

VS.25/5.

24

P.W.D (A3)

Special

T. M. No 2274A/55-10 dt 7-6-55

From the A-S(P.W.D)

To the C.E. (H)

Issued (Pw) 7.6.55

Sub:- Trees - Trees on the Highway between Kolleshwar and Someshwar auctioned by the Highways Dept - Suit notice for compensation by Sri Nagaiah Hyde.

Ref:- your letter No 2608 Dt/55-18 dt 25-5-55

Please expedite the submission of your report or say when it may be expected

7.6.55

Date ... 's Initials.

P.C 6/6

6/6/55

Kw 6.6.55

25

OFFICE OF THE CHIEF ENGINEER(HIGHWAYS)
CHEPAUK, MADRAS-5.

52271

From
The Chief Engineer(Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department, Madras-9

T.M.NO.2608-D1/55-19 DATED 10-6-1955.

ASST. SECRETARY TO GOVERNMENT
13 JU
PUB

Sir,

SUB: TREES - Trees on the Highways Department - between Koteshwar and Someshwar - Auctioned by Highways Department - Suit notice for compensation by Sri B. Nagaiya Hegde -

REF: Your T.M. dated 7-6-1955.

******

The report called for from the Chief Conservator of Forest has not been received. A reply will be sent on receipt of his report.

for Chief Engineer(Highways).

Post copy in confirmation.

VS:10/6.

P.W.D(A3)

A.R. Lr. 22.6.55

15/6/55

15.6.55

15.6.55

27

Special.

C.F. 32 — 70.10.558—23-1-56.

Forest Department

From (Name)
Sri S.K. Bassu, I.F.S.,
Designation
Chief Conservator of forests,
Station
Madras-5.

Received ..... Registered .....

To

The Chief Engineer,
High-Ways,
Chepauk, Madras-5.

GOVERNMENT
5297
Enclosures
4 JUN 1955
WORKS DEPARTMENT Sir,

Ref: No. RT. 764/55., dated 23rd June 1955

Sub: TREES--Trees in the Highway between Koteswar and Someswar--auctioned by the Highways Department--Suit Notice for Compensation by Sri B. Nagaiya Hegdi.

Ref: Government Endt. No. ~~2247~~ 2274/A/54-1 Public Works Department, dated 12/1/1955.
Your letter No.2608/D1/55-2 Agriculture, dated 1/2/1955.

====

I offer the following remarks on the Suit Notice issued by Sri S.N. Achayya, Advocate, Coondapur on behalf of Sri B. Nagaiya Hegdi.

2. PARAGRAPHS 3 and 5 OF THE SUIT NOTICE:-

On 18/7/52, the Forest guard, Hebri beat in Karkal Range noticed illicit fellings of 9 trees inside Marinakadlu Reserved forest between cairns 1 and 2 (miles 5/6 and 6/7 of Someswar - Koteswar road) and booked a case against the offender Sri B. Nagaiya Hegdi. The produce obtained from these fellings was 6 Hopea logs and one Nerale log measuring 85 C.ft., and heaps of firewood measuring 27' x 3½' x 5' valued at Rs.35/-. The produce was seized and the offence was dealt with in O.R. No.23/52-53 of Karkal Range. On a joint inspection of the scene of offence by the Range officer, Karkal and the Supervisor, Highways Department, Brahmawar, it was noticed that the fellings were from the Reserved forest but that by a mistake of fact, then trees were enumerated and sold in auction by the Highways Department to Sri B. Nagiaya Hegde. The apparent offender Sri Nagaiya Hegde gave a statement that he had not committed any forest offence and that he was not willing to compound the offence. A Statement was also recorded from the Supervisor, Highways Department Brahmavar on 15/9/1952. He admitted having sold the trees to Nagaiya Hegde and that the purchaser had paid the sale amount to him. The Supervisor requested that action against the purchase may be dropped in view of the fact that the Sale was a bone-fide one and that the forest produce may be taken charge of and disposed of by the Forest Department- Accordingly the case was withdrawn but the seizures were confiscated to Government and later on sold on auction by the Forest Department. At this auction sale the timber fetched Rs.~~8~~/ 31/14/0 and the firewood Rs.19/3/3. The produce was delivered to the highest bidder Sri T. Sadasiva Hegde after collecting from him the sale amount and the appropriate sales tax.

3. PARA 4 of the Suit Notice:-

The District Forest officer South Kanara reports that the alleged application dated 19/7/1952 was not received in his office.

28

4. PARA 7 OF THE SUIT NOTICE:-

This r lates to Offence Report No.32/52-53 of Karkal Range. On 24/8/1952, the Forest Guard, Albady Beat detected a double bullock cart loaded with Hopea log valued at Rs.25/- being transported on Someshwar - Coondapur road at Ardy without a Timber Transport permit. The Cartman Ragu Chetty and the owner of the timber Sri B. Nagaiya Hegde admitted the offence committed under the Timber Tansit Rules of the South Kanara division and expressed their willingness to compound the offence. The case was compounded for Rs. 10/-. The seizures were released after realising the compounding fee.

5. PARAGRAPHS 6, 8, 9 and 10 OF THE SUIT NOTICE:-

No remarks as these do not pertain to the Forest Department.

6. Since there has apparently been a mistake committed by the Supervisor, Highways Department in selling the trees not belonging to the Highways Department, I think, the petitioner is entitled to the refund of the Sale value of the produce alleged to have been paid by him. But it is highly incredible that the petitioner could have realised a profit of Rs.500/- on 85 C.ft. of Hopea and Narale logs as these fetched only Rs. 31-14-0 at the auction sale conducted by the Forest Department.

7. The action of the District Forest officer in withdrawing the case of illicit fellings and compounding the case under Timber Transit Rules was only in good faith and cannot therefore be challenged.

8. I request you to ensure that such lapses do not occur on the part of your subordinates in future.

for CHIEF CONSERVATOR OF FORESTS.

Blv.23.6.

Copy submitted to the Secretary to Government, P.W.D. Department,

Please see the letter from the Chief Conservator of Forests on pp 27-28 of the CE's remarks may be awaited SH 5.7.55.

29 P.W.D.(A-3)

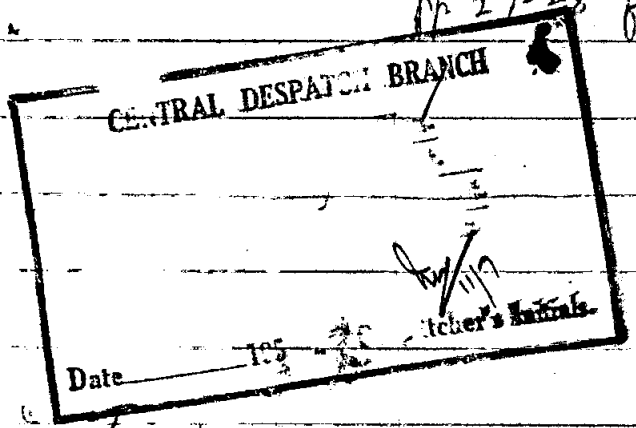
Spl.

Memo No 2274 A/55-11 dt 8.7.55

Sub: Trees - Trees on the Highway between Kokeshwar and Someshwar auctioned by the Highways Deptt. Suit notice for compensation by Sri Nagaraja Hedge -

Ref: From the Chief Conservator of Forests, Ref No Rt-764/55 dt 23.6.55

The attention of the C.E.(H) is invited to the reference cited. He is requested to expedite the submission of his report.



pp 27-28 cf

To

The CE(H)

8/7/55

8.7.55

8.7.55

31

HIGHWAYS DEPARTMENT.

From
Sri K.K.Nambiar, B.E.M.I.E.(Ind)., F.Inst.H.E.(Eng)M.I.Mun.E.(Eng)., M.Am.Soc., C.E.,
Chief Engineer (Highways),
Chepauk, Madras.5.

To
The Secretary to Government,
Public Works Department,
Fort St. George,
Madras.

ASST. SECRETARY TO GOVERNMENT
61892
PUBLIC WORKS DEPARTMENT

LETTER NO.2608 D1/55-22 DATED 16.7.55.

Sir,

SUB: Trees - Trees in the Highways between Koteshwar and Someswar auctioned by the Highways Department - suit notice for compensation by Sri Nagaiya Hedge.

REF: Govt. Memo No.2274 A/55-11 dated 8.7.55. 29 cwt

The matter is under consideration. A reply will be sent at an early date.

P.W.D (A3)
A.R.Till 1.8.55
21/7/55
21.7.55
21.7.55
pm.18.7.

for Chief Engineer (Highways)

P.W.D (A3) Specials

T.M. No. 2274 A/55-12 dt 1.8.55

From the A.S. P.W.D.

To the CE (H).

T.M. Issued. 1/8

Sub: Trees – Trees on the Highway between Kotteshwar and Someshwar auctioned by the Highways Dept – Suit notice for compensation by Sri Nagaiya Hegde

Ref: Your letter No. 2608 D1/55-22 dt 16.7.55

Please expedite the submission of your report or say when it may be expected.

1.8.55

1/8/55

Kum 7.8.55

P C to

HIGHWAYS DEPARTMENT.

From
Sri K. K. Nambiar, B.E.,
M.I.E.(Ind), F.Inst.H.E.(Eng),
M.I.Mun.E.(Eng), M-Am.Soc.C.E.,
Chief Engineer (Highways),
Chepauk, Madras-5.

To
The Secretary to Government,
Public Works Department,
Fort St. George,
Madras-9.

ASST. SECRETARY TO GOVT. 1162 16 AUG 1955 PUBLIC WORKS DEPT.

******

Letter No. 2608-D1/55-24 dated 12-8-1955.

Sir,

SUB: TREES in the Highways between Koteswar and Someshwar auctioned by the Highways Department - Suit notice for compensation by Sri Nagaiya Hedge -

REF: Govt.T.M.No.2274-A/55-12 dated 1-8-1955.

***

The total number of trees auctioned was only 154 as and not 180 as mentioned in this Office letter No.2608-D1/55-14 dated 27-4-55 As already reported in this Office letter mentioned above, the number of Forest trees wrongly auctioned by the Highways Department is only 8 trees and the 9 trees mentioned by the Chief Conservator of Forests relate to an offence, committed by Sri B. Nagaiah Hedgi on his own responsibility. The officers of this department should not have given a statement for the withdrawal of the case relating to 9 trees The amounts fetched by way of auction viz. Rs.31-14-0 (Timber) and Rs.19-3-3 (Firewood referred to by the Chief Conservator of Forests evidently relate to the 9 trees and need not be taken into account in deciding the amount due to the petitioner.

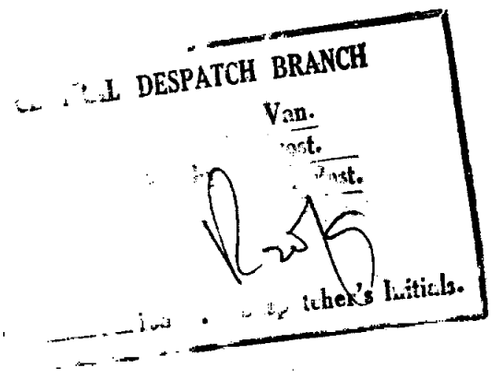
The amount of compensation that may be paid to the petitioner is only for 8 trees and the amount viz.7-3-0 already reported needs no change.

The Superintending Engineer has since reported that the party refused to sign a hand receipt for Rs.7-3-0 and so the amount was not refunded.

for Chief Engineer (Highways).

VS:12/8.

LETTER No. 2274 A-A/55-15 dt 16.9.55



To

Sri S.N.Acharya, B.A., L.L.B.,
Advocate, Coondapoor,
S.Kanara.

Sir,

Sub: AVENUE TREES on Highways between Koteswar and Someshwar auctioned by the Highways Deptt in 1951-52 - Suit notice for payment of compensation to Sri B.Nagaiya Hegde for alleged loss sustained by him.

Ref: Govt. letter No.2274 A/55-5 P.W. Dated 16-3-55.

....

In continuation of the letter cited, I am directed to state that the C.E(H) has reported that the number of trees auctioned on the ~~margin~~ of Someshwar Koteshwar Road from Mile 0/1 to M.10/1 was 154 and not 180 as contended by your client Sri Nagaiya Hegde. It was later found that in the list of 154 trees sold by the Highways Department to your client 8 trees belonging to the Forest Deptt. were also included by mistake. But while felling the 8 trees mentioned above, your client cut 9 more trees belonging to the Forest Deptt. and the removal of these 9 trees by him was on his own responsibility. This act of your client constituted an offence and it was dealt with in OR 23/52-53 of Karkal Range.

It is also reported that on 24-8-52 your client was caught by the Forest Guard, Albadi, in the act of removing a Hopea log in a double bullock cart on Someshwar-Coondapur road

without a Timber Transport Permit and your client as well as the cart man admitted the offence committed under the Timber Transport Rules and expressed willingness to compound the offence. This offence was dealt ~~xx~~ with under OR No.32/52-53 and the case was compounded for Rs 10/-. The seizures were also released after realising the compounding fees.

P on page 2

Your client was not obstructed from removing the trees other than those eight trees belonging to the Forest Deptt. and included by ~~our State and nationalised by~~ mistake in the auction held by the Highways Department and hence the Highways Deptt. cannot be held responsible for any alleged loss therefor. The proportionate amount for the eight trees referred to above works out to Rs 7-3-0 plus sales tax. Your client is eligible for the refund of only this amount and his claim in other respects cannot be acceded to.

Y on p 15

Z on p 33

14/9/55

Y.F.

15.9.55

15.9.55

Copy to C.E.(H)
Copy to the ~~D.F.O.~~ Chief Conservator of Forests.

2 Spcs.

CENTRAL RESEARCH INSTITUTE
Date 16.9.55 Examiner's Initials.

except-h-

L.Dis.No.2274 X-A/55-15.

Public Works Department,
Fort St. George, Madras,
Dated 16th September 1955.

From

Sri T.V.Sriyvasan, I.A.S.,
Deputy Secretary to Government.

To

Sri S.N.Acharya, B.A., L.L.B.,
Advocate, Cochin-18,
SOUTH KANARA.

Sir,

Sub: Avail. Trees on Highways between Kokeshwar and Someshwar auctioned by the Highways Department in 1951-52 - Suit notice for payment of compensation to Sri D.Jagatiya Nagda for alleged loss sustained by him.

Ref: Government letter No.2274 A/55-5 Public Works dated 16th March 1955

....

In continuation of the letter cited, I am directed to state that the Chief Engineer (Highways) has reported that the number of trees auctioned on the Someshwar Kokeshwar Road from Mile 0/1 to M.19/1 was 154 and not 160 as contended by your client, Sri Nagatiya Nagda. It was later found that in the list of 154 trees sold by the Highways Department to your client 8 trees belonging to the Forest Department were also included by mistake. But while felling the 8 trees mentioned above, your client cut 9 more trees belonging to the Forest Department and the removal of these 9 trees by him was on his own responsibility. This act of your client constituted an offence and it was dealt with in OR 29/52-53 of Kerkal Range.

It was also reported that on 24th August 1952 your client was caught by the Forest Guard, Uppi, in the act of removing a Hopea log in a double bullock cart on the Someshwar-Brondapur road without a Timber Transport Permit and your client as well as the cartman admitted the offence committed under the Timber Transport Rules and expressed willingness to compound the offence. This ~~office~~ offence was dealt with under OR No.32/52-53 and it was compounded for Rs 10/- The seizures were also released after realising the compounding fees.

Your client was not obstructed from removing the trees other than those eight trees belonging to the Forest Department and included by mistake in the auction held by the Highways Department and hence the Highways Department cannot be held responsible for any alleged loss therefor. The proportionate amount for the eight trees referred to above works out to Rs 7-2-0 plus sales tax. Your client is eligible for the refund of only this amount and his claim in other respects cannot be acceded to.

Yours faithfully,

....

(A.J.Chandy)
For DEPUTY SECRETARY TO GOVERNMENT

lvn/16.9

Copy to the Chief Engineer (Highways)
Copy to the Chief Conservator of Forests.

Forwarded / By Order

[C.No. 2274 A/55]

Sub:- Avenues- Highways Dept.- South Kanara Dt.- Sale of certain trees on Someshwar-Koteswar Road in public auction- Compensation for loss Claim of Sri Nagiah Hegde- Suit notice.

Ref: From Sri S.N.Acharya, Advocate, Coondapur, letter dated 1-1-55
From the C.E(H) Ref.No.2608 D1/55-14 dt. 27-4-55.
From the conservator of Forests, Ref.No.Rt. No.764/55 dated 23.6.55.
From the C.E(H)Ref.No.2608 D1/55-24 dt. 12-8-55

pp 1-3 c/f
" 15 c/f
" 27-28 c/f
" 33 c/f

A onp 1 c/f

B onp 1 c/f

C onp 1 c/f

D onp 1 c/f

E onp 1 c/f

F onp 1-2 c/f

The file relates to a suit notice issued by Sri S.N.Acharya, Advocate, Coondapur, on benalf of his client Sri Nagaiya Hedge.

In his suit notice at pp.1-2 c.f. Sri Acharya has reported that 180 trees, situated on Someshwar-Koteshwar road from mile 1 to mile 6/4 in S.Kanara Dt., were sold by the Highways Department in public auction in June 1952 and that they were knocked down ~~by~~ to his client Sri Nagaiya Hegde for ~~Rs~~ Rs 188-4-6. It is reported that his client remitte the sale price and that on 19-7-52 he also applied to the District Forest Officer for permission to remove the felled trees as he was given to understand that such a permit should be obtained. It is also reported that his client did not get any communication from the D.F.O and that he commenced felling the trees, taken by him in auction, ~~on~~ the belief that his right for the trees was perfect. The Forest Deptt. authorities, however, objected to the cutting of trees, seized the logs and filed a criminal case against him in OR 23/52-53. It is also represented that his client petitioned to the Highways Deptt. to interfere in the matter but without any result. As the trees felled down by his client were being stolen by thieves he arranged to pile up the logs; ~~but~~ he was again obstructed by the Forest Deptt. authorities and he had to pay a compounding fee of Rs 10/-. In the absence of any support from the Highways Deptt. it

is alleged that his client has had to suffer material loss and mental agony and he has therefore requested that arrangements may be made to pay his client the amounts specified below:

(i) The amount of Rs 188-4-6 received by the Highways Deptt. under the cover of auction sale;

(ii) Rs 500/ by way of compensatory damages for the loss of profit engendered by the transactions; and

(iii) Rs 25/- towards the cost of the suit notice.

A copy of the suit notice was sent to the C.E.(H) and he was asked to offer his remarks in consultation with the C.C.F. The Chief Conservator of Forests has reported that on 18-7-52 the Forest Guard, Hebri beat, in Karkal range, noticed illicit fellings of nine trees inside the Marinakodlu Reserve Forest between M.5/6 and 6/7 of Someshwar-Koteshwar Road and booked a case against the offender Sri B. Nagaiya Hegde. The case was dealt with in O.R.No. 23/52-53. He has also stated that the Supervisor, Highways Deptt., Brahmavar, reported that the trees ~~cut and~~ from the Reserve Forest were sold by mistake to Sri Nagaiya Hegde and that the ~~letter~~ Supervisor requested that the action against the offender might be withdrawn. Accordingly the Forest Deptt. withdrew the case against the offender and they later on sold the fellings in public auction for Rs 51-1-3.
He has also reported that on 24-8-52 Sri. Hegde attempted to remove one double bullock cart load of Hõea log without a Timber Transport permit and when this was detected he admitted the offence and expressed his willingness to ~~compose~~ compound the offence. The case was accordingly compounded for Rs 10/- and the seizures were released after-realising the compounding fee. The C.C.F. has remarked that as the Supervisor, Highways Deptt.

Q on p 28 Cf

apparently commited a mistake in having sold the trees not belonging to the Highways deptt. the petitioner seems entitled only to the refund of the sale value of the produce alleged to have been paid by him. He has also remarked that the action of the D.F.O in withdrawing the case in OR 23/52-53 and compounding the other case under Timber ~~Permit~~ Transit Rules was only in good faith and cannot therefore be challenged.

R' on p 28 Cf

p 33 f

The C.E(H) has reported that number of trees auctioned in the margin of Someshwar-Kotteswar Road (a Govt. road) from M.O/1 to M 10/1 was 154 and not 180 as contended by the petitioner. He has also reported that it was subsequently found that in the list of trees sold by the Deptt. eight trees belonging to the Forest Deptt. were ~~was~~ also included by mistake. He has further reported ~~and~~ that while felling the 8 trees belonging to the Forest Deptt. the petitioner cut down 9 more trees belonging to the Forest Deptt. The C.E. has stated that the removal of nine more trees of Forest Deptt by the petitioner on his own responsibility related to an offence and the Forest Deptt. dealt with this offence in OR 23/52-53. He is of the view that the officers of the Deptt. should not have given a statement for the withdrawal of the case in OR 23/52-53. He has reported that the amount of Rs 51-1-3 fetched by the Forest Deptt. in auction sale evidently relates to the nine trees and that this need not be taken ~~over~~ into account in deciding the amount due to the petitioner.

S' on p 15 Cf

T' on p 15 Cf

U' on p 33 Cf and K' on p 27 Cf

W on p 33 Cf

X on p 33 f

The C.E.(H) has remarked that the petitioner's was not obstructed from removing the trees other than belonging to the Forest Deptt. and that the

Y on p 15 Cf

Highways Deptt. cannot be held responsible for any alleged loss therefor. He has also reported that the proportionate amount for 8 trees belonging to the Forest Deptt. but included by mistake and auctioned by the Highways Deptt works out to Rs 7-3-0 plus sales tax, and that the petitioner has refused to sign a receipt for this amount when this amount was refunded to him by the Deptt.

It will be seen from the above that the petitioner was not allowed to removing ~~petitioner has removed all~~ the trees sold to him except the 8 trees belonging to the Forest Dept. For these 8 trees the petitioner seems eligible only for the sale value paid by him, ~~viz~~ Rs. 7-3-0 and not the amount now claimed by him and referred to at 'A' on p.2 ante. In the circumstances, in reply to his suit notice, the Advocate may be informed that the threatened suit ~~notice~~ is awaited.

After orders are passed the file may be sent to Agri., Law (Opinion) and Fin. for remarks.

27/8/55

30/8/55

30.855

Agri / Law (Opn) / Fin

Agri. (E-IV) Deptt.

(Previous notes of this Deptt. is at page 3 ante).

P.W.D no. no. 2274 A/55-1

30.8.55

May be perused and passed on to 1857

Law (Opn.) No special remarks of this Dept are called for

1.9.55

2.9.55

Law (Opn)

UNDER SECRETARY TO GOVERNMENT
31 AUG 1955
AGRICULTURE DEPARTMENT

Agri. U.O. No 78577-E(IV)/55-1

2.9.55

A

3.45

LAW DEPARTMENT.

A reply may be sent to the suit-notice giver explaining the facts and circumstances of the case and indicating the proportionate refund he is eligible for in respect of the trees wrongly included in the auction and not belonging to the Highways Department of the Government. He may also be informed that in other respects his claim cannot be acceded to.

3-9-55 3/9/55 ~~A D S~~

Law No. 12112/55
3/9/55

Fin
Fin (Enquire A)

Fin may agree to the proposal at ~~A~~ on p 4 above ~~Law may~~ subject to the remarks of Law above.
3/9/55

3/9/55 P.W.

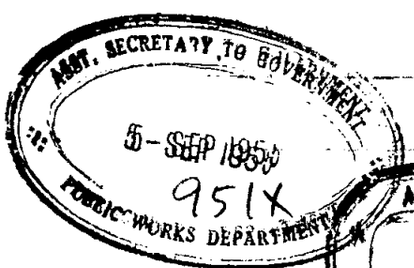
Fin. No. 6903/EA-I
3-9-55

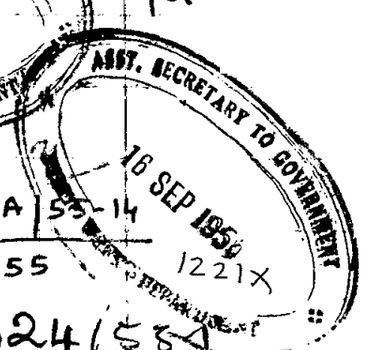
P.W.D (A3)

Please see Fin notes on pp 1-5 above.

W.r.t the notes of Law & Finance Depts above, a draft letter is submitted below for approval. Law may see before

14/9/55 15-9-55 15.9.55 Law





Scan in Law
15/9/55 15/9/55 ~~A D S~~

PWD. No. 2274 A/55-14
15-9-55

Law No. 12724/55
15-9-55.

Issue
16-9-55

PWD